HOUSE OF THE PEOPLE

THE FORWARD CONTRACTS (REGULATION) BILL, 1950

(REPORT OF THE SELECT COMMITTEE)

PARLIAMENT SECRETARIAT
NEW DELHI.

Aug, 1951

REPORTS OF SELECT COMMITTEE PRESENTED

TO PARLIAMENT IN - 1961.

S. No.	Short title of the Bills.	Date of introduction. (Presentation)	Date of Publication. (in the Gazette)
	2.	3.	4.
1.	The Port Trusts and Ports(Amendment) Bill, 1960.	7- 2-61.	24-2-61.
2.	The Representation ofthe People (No.2) Bill, 1960.	31- 3-61.	14-4-61.
3.	The Finance Bill, 1961.	21- 4-61.	24-4-61.
4.	The Constitution(First Amendment) Bill, 1961.	25- 5-61.	2-6-61.
5.	The State Financial Corporations Bill, 1951.	10- 8-61.	26-8-61.
6.	The Tariff Commission Bill,1951.	-do-	-do-
7.	The Forward Contracts (Regulation) Bill, 1950.	20- 8-61.	1- 9-61.
8.	The Indian Companies(Amendment) Bill, 1961.	30- 8-61.	8- 9-61.
9.	The Evacuee Interest(Separation) Bill, 1961.	10- 9-61.	29- 9-61.
10.	The Benares Hindu University (Amendment) Bill, 1961.	7- 9-61.	29- 9-61.
11.	The Aligarh Muslim University (Amendment) Bill, 1961.	-do-	-do-
12.	The Press(Incitement to Crime) Bill, 1951.	27-9-61.	6-10-61.
13.	The Industries(Development and Control) Bill, 1949.	24- 9-61.	-do-
14.	The Plantations Labour Bill,1951.	29- 9-61.	13-10-61.

1.	2.	3.	4.
15.	The Delhi Premises (Requisition and Eviction) Amendment Bill,1951.	10- 9-51.	22- 9-51.
16.	The Displaced Persons (Debts Adjustment) Bill, 1951.	1-10-51.	20-10-51.
17.	The Notaries Bill, 1951.	4-10-51.	-do-

THE FORWARD CONTRACTS (REGULATION) BILL, 1950.

REPORT OF THE SELECT COMMITTEE.

WE the undersigned members of the Select Committee to which the Bill to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith was referred, have considered the Bill and the evidence tendered before us on behalf of certain associations interested in the subject-matter of this Bill, and have now the honour to submit this our report with the Bill as amended by us annexed thereto.

Clause 2.—The period of 11 days specified in sub-clause (i) may seem somewhat excessive, but having regard to the following facts, namely, (a) that this is the maximum period permissible, (b) that the usages of the trade vary in this regard, and (c) that discretion is left to the Central Government to fix the period consistently with such usages, we do not feel called upon to make any change herein. Normally the period should not exceed two or three days, but in exceptional cases Government should have the option to fix a longer period.

Clause 3.—We have redrafted sub-clause (2) so as to make it clear that the Commission can in no case consist of less than two persons. We also think that the period of office of members of the Commission should be specified in the Act itself, while the other terms and conditions of service may be left to be regulated by rules. We have also included the usual provision respecting the qualifications for membership of a Commission of this type.

Clause 4.—In sub-clause (a) we have included a specific reference to the recognition of, and the withdrawal of recognition from, an association as one of the matters in respect of which the Commission is expected to advise the Government.

Clause 6.—We do not feel called upon to make any changes in sub-clause (2) (b) as we are confident that in issuing any directions under this provision the Central Government will ensure that in the case of every recognised association dealing with forward contracts in agricultural commodities due provision is made for the representation of agricultural interests on the governing bodies.

Clause 8.—We have amended sub-clause (2) (b) so as to provide that in suitable cases independent persons are appointed to make the necessary inquiry, as it may not be advisable to leave the inquiry to be conducted by the governing body itself in all cases.

Clause 11.—In sub-clause (2) we have made two small amendments to include default and the fixing of ceiling and floor prices as matters in respect of which bye-laws may be made. We have also recast sub-clause (3) so as to make it clear that a contract becomes void only if certain specified bye-laws are contravened, as is the intention of this provision.

Clause 13.—In our opinion the governing body of an association should not remain suspended for more than six months. We have also omitted the proviso because we think that in all cases the governing body should be given an opportunity of being heard before suspension, and we cannot conceive of any such emergency arising as is likely to require the removal of this salutary restriction.

Clause 15.—A majority of us feel that sub-clause (2) should be revised so as to provide that the rights of innocent third parties are not affected by forward contracts entered into in contravention of the relevant bye-laws of the recognised association. We also think that having regard to the usages of the trade, the consent or authority required under sub-clause (3) which must necessarily be in writing may, in cases where it is not possible to obtain such writing in advance, be allowed to be furnished, say, within three days of the date of the contract.

The other amendments in this clause are clarificatory in nature.

Clause 18.—We have considered the provisions of this clause very carefully and have taken into account the conflicting views expressed as to the necessity or otherwise for this clause. In our opinion the clause as now revised should satisfy all conflicting views on the subject. We have particularly taken into account the suggestion made by Messrs. K. P. Goenka and B. Das Gupta in their minute of dissent appended to the report of the Expert Committee and also by certain Chambers of Commerce in West Bengal to the effect that transferable specific delivery contracts relating to raw jute and jute manufactures should be exempted from Chapters III and IV of the Act. However, as futures trading in raw jute and jute manufactures is at present prohibited under two Bengal Acts, and as there is at present a shortage of these commodities and as there is no early prospect of the Act being applied to them, we have not felt called upon to make any specific exemption in respect of these commodities. In the event of the Act being applied to raw jute and jute manufactures, it would be a simple matter to grant the necessary exemption under clause 26 if the circumstances so require.

Clause 21.—We think that a sentence of two years should suffice.

Clause 25.—The power of delegation contained in this clause is somewhat wide, but it has necessarily to be so. We are, however, certain that in making any such delegation the Central Government will not delegate powers relating to supersession, suspension of business, etc., to persons subordinate to State Governments.

Clause 27.—This clause relating to protection of action taken in good faith has been unnecessarily extended to members, office-bearers and servants of recognised associations, and in our opinion this provision should be deleted.

2. The Bill was published in Part II, Section 2 of the *Gazette of India* on 30th December, 1950.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR
HAREKRUSHNA MAHTAB
D. P. KARMARKAR
AMOLAKH CHAND
RAM SUBHAG SINGH
KRISHNANAND RAI
MANILAL CHATURBHAI SHAH
B. P. JHUNJHUNWALA
M. SHANKARAIYA
*A. C. GUHA
V. J. GUPTA
GOPINATH SINGH
KRISHNA KANT VYAS
R. K. SIDHVA
V. S. SARWATE
N. ALEXANDER
JAGANNATH DAS

NEW DELHI;

The 20th August, 1951

* Subject to a Minute of Dissent.

MINUTE OF DISSENT

I am signing the report subject to this note of dissent regarding some provisions.

2. In clause 2, the period for ready delivery contract should have been reduced to 7 days as was in the original draft. I am doubtful about the necessity of making it obligatory in clause 3 to have a member in the Commission with experience of forward markets. In clause 4(c) line 2 after the word "goods" I would like "and regions" to be added. The composition of recognised associations has been left to be decided by rules; I hope the Central Government will see that the office bearers as well as the governing bodies are elected in a meeting of the general body. The election of the office bearers by the governing bodies should not be allowed. I would also like that a minimum number of members should be fixed before an association can be recognised.

3. The most contentious part of the Bill is Chapter IV. The clauses of this Chapter were fully discussed. The two States of Bombay and West Bengal most interested in this Bill and in controlling forward contract markets—gave two opposing views regarding the non-transferable specific delivery contract. Clause 18, has been suitably changed so as to accommodate both the views. I hope the changed form will not disturb the practice now in vogue in those two States.

4. On some other minor points also I think the report should have been slightly changed.

NEW DELHI;
The 20th August, 1951

A. C. GUHA.

THE FORWARD CONTRACTS (REGULATION) BILL, 1950.

(AS AMENDED BY THE SELECT COMMITTEE.)

(*Words sidelined or underlined indicate the amendments suggested by the Committee: asterisks indicate omissions.*)

A

BILL

to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(*1*) This Act may be called the Forward Contracts (Regulation) Act, 1951.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act for different States or areas, and for different goods or classes of goods.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "association" means any body of individuals, whether incorporated or not, constituted for the purpose of regulating and controlling the business of the sale or purchase of any goods;

(*b*) "Commission" means the Forward Markets Commission established under section 3;

(*c*) "forward contract" means a contract for the delivery of goods at a future date and which is not a ready delivery contract;

(*d*) "goods" means every kind of movable property other than actionable claims, money and securities;

(*e*) "Government security" means a Government security as defined in the Public Debt Act, 1944 (XVIII of 1944);

(*f*) "non-transferable specific delivery contract" means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bills of lading, warehouse receipt or any other document of title relating thereto are not transferable;

(*g*) "option in goods" means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a *teji*, a *mandi*, a *teji-mandi*, a *galli*, a put, a call or a put and call in goods;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "ready delivery contract" means a contract which provides for the delivery of goods and the payment of price therefor, either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in

respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise;

(*j*) "recognised association" means an association which is for the time being recognised by the Central Government under section 6;

(*k*) "rules", with reference to rules relating in general to the constitution and management of an association, includes in the case of an incorporated association its memorandum and articles of association;

(*l*) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable securities of a like nature in or of any incorporated company or other body corporate and also Government securities;

(*m*) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;

(*n*) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract.

CHAPTER II

The Forward Markets Commission

3. Establishment and constitution of the Forward Markets Commission.—(*1*) The Central Government may, by notification in the Official Gazette, establish a Commission to be called the Forward Markets Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission by or under this Act.

(*2*) The Commission shall consist of not less than two, but not exceeding three, members appointed by the Central Government of whom the Chairman shall be a full-time member and the other or others, full-time or part-time as the Central Government may direct, and one of the members of the Commission shall be an officer of the Central Government and another a person having a wide experience in the organisation and working of forward markets in India.

(*3*) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has, directly or indirectly, any such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions of this sub-section.

(*4*) No member of the Commission shall hold office for a period of more than three years from the date of his appointment, and a member relinquishing his office on the expiry of his term shall be eligible for reappointment.

(*5*) The other terms and conditions of service of members of the Commission shall be such as may be prescribed.

4. Functions of the Commission.—The functions of the Commission shall be—

(*a*) to advise the Central Government in respect of the recognition of, or the withdrawal of recognition from, any association or in respect of any other matter arising out of the administration of this Act;

(*b*) to keep forward markets under continuous observation and to draw the attention of the Central Government or of any other prescribed authority to any important development taking place in, or in relation to, such markets and to make recommendations thereon;

(*c*) to collect and disseminate information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods;

(*d*) to make recommendations with a view to improving the organisation and working of forward markets; and

(*e*) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.

CHAPTER III

Recognised Associations

5. Application for recognition of associations.—(*1*) Any association concerned with the regulation and control of forward contracts which is desirous of being recognised for the purposes of this Act may make an application in the prescribed manner to the Central Government.

(*2*) Every application made under sub-section (*1*) shall be accompanied by a copy of the bye-laws for the regulation and control of forward contracts and also a copy of the rules relating in general to the constitution of the association, and, in particular, to—

(*a*) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted;

(*b*) the powers and duties of the office bearers of the association;

(*c*) the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto;

(*d*) the procedure for registration of partnerships as members of the association and the nomination and appointment of authorised representatives and clerks.

6. Grant of recognition to association.—(*1*) If the Central Government is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as may be required, that the rules and bye-laws of the association are suitable in the interest of the trade and are in the public interest, it may grant recognition to the association in such form as may be prescribed.

(*2*) Before granting recognition under sub-section (*1*), the Central Government may, by order, direct,—

(*a*) that there shall be no limitation on the number of members of the association;

(*b*) that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association, and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it.

(*3*) No rules of a recognised association shall be amended except with the approval of the Central Government.

(*4*) Every grant of recognition under this section shall be published in the Official Gazette.

7. Withdrawal of recognition.—If the Central Government is of opinion that any recognition granted to an association under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to the association to be heard in the matter, and in consultation with the Commission, withdraw, by * notification in the Official Gazette, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

8. Power of Central Government to call for periodical returns or direct inquiries to be made.—(*1*) Every recognised association shall furnish to the Central Government such periodical returns relating to its affairs or the affairs of its members as may be prescribed.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), where the Central Government considers it expedient so to do, it may, by order in writing,—

(*a*) call upon a recognised association to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members as the Central Government may require, or

(*b*) appoint one or more persons to make, or direct the governing body of such association to make in association with one or more representatives of the Central Government, an inquiry in relation to its affairs or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order.

(*3*) Where an inquiry in relation to the affairs of a recognised association or the affairs of any of its members has been undertaken under sub-section (*2*)—

(*a*) every director, manager, secretary or other officer of such association,

(*b*) every member of such association, and

(*c*) if the member of the association is a firm, every partner, manager, secretary or other officer of the firm,

shall be bound to produce before the authority making the inquiry, all such books, accounts, correspondence and other documents in his custody or power relating to, or having a bearing on the subject-matter of, such

inquiry and also to furnish the authority with any such statement or information relating thereto as * may be required of him, within such time as may be specified.

9. Furnishing of annual reports to the Central Government by recognised associations.—(*1*) Every recognised association shall furnish to the Central Government a copy of its annual report.

(*2*) Such annual report shall contain such particulars as may be prescribed.

10. Power of Central Government to direct rules to be made or to make rules.—(*1*) Whenever the Central Government considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association in respect of all or any of the matters specified in sub-section (*2*) of section 5, other than the matter specified in clause (*b*) of sub-section (*2*) of section 6 within a period not exceeding six months from the date of the order.

(*2*) If any recognised association, against whom an order is issued by the Central Government under sub-section (*1*), fails or neglects to comply with such order within the period specified in the said sub-section, the Central Government may make the rules or amend the rules made by the recognised association, as the case may be, either in the form specified in the order or with such modification thereof as may be agreed upon between the association and the Central Government.

(*3*) Where, in pursuance of sub-section (*2*), any rules have been made or amended, the rules so made or amended shall be published in the Official Gazette and on such publication shall, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or any other law for the time being in force, have effect as if they had been made or amended by the recognised association concerned.

11. Power of recognised association to make bye-laws.—(*1*) Any recognised association may, subject to the previous approval of the Central Government, make bye-laws for the regulation and control of forward contracts.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(*a*) the opening and closing of markets and the regulation of the hours of trade;

(*b*) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of, and payment for, goods, the passing on of delivery orders and for the regulation and maintenance of such clearing house;

(*c*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(*d*) fixing, altering or postponing days for settlement;

(*e*) determining and declaring market rates, including opening, closing, highest and lowest rates for goods;

(*f*) the terms, conditions and incidents of contracts including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(*g*) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members or between a commission agent and his constituent, or between a broker and his constituent, or between a member of the recognised association and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents and brokers who are not parties to such contracts;

(*h*) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association;

(*i*) the method and procedure for the settlement of claims or disputes including the settlement thereof by arbitration;

(*j*) the levy and recovery of fees, fines, and penalties;

(*k*) the regulation of the course of business between parties to contracts in any capacity;

(*l*) the fixing of a scale of brokerage and other charges;

(*m*) the making, comparing, settling and closing of bargains;

(*n*) the regulation of fluctuations in rates and prices;

(*o*) the emergencies in trade which may arise and the exercise of powers in such emergencies including the power to fix maximum and minimum prices;

(*p*) the regulation of dealings by members for their own account;

(*q*) the limitations on the volume of trade done by any individual member;

(*r*) the obligation of members to supply such information or explanation and to produce such books relating to their business as the governing body may require.

(*3*) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of any of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (*2*) of section 15;

(*b*) provide that the contravention of any of the bye-laws shall—

(*i*) render the member concerned liable to fine; or

(*ii*) render the member concerned liable to expulsion or suspension from the recognised association or to any other penalty of a like nature not involving the payment of money.

(*4*) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and when approved by the Central Government, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principle office of the recognised association is situate:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication, in any case.

12. Power of Central Government to make or amend bye-laws of recognised associations.—(*1*) The Central Government may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section:

Provided that where the Central Government takes any action under this section on its own motion, it shall do so in consultation with the Commission.

(*2*) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Official Gazette and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and on such publication the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised association.

(*3*) Notwithstanding anything contained in this section, where the governing body of a recognised association objects to any bye-laws made or amended under this section by the Central Government on its own motion, it may, within six months of the publication thereof under sub-section (*2*), apply to the Central Government for a revision thereof, and the Central Government may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise in consultation with the Commission the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published in the Official Gazette.

(*4*) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

13. Power of Central Government to supersede governing body of recognised association.—(*1*) Where the Central Government is of opinion that the governing body of any recognised association should be superseded, then notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, in consultation with the Commission and after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification in the Official Gazette, declare the governing body of such association to be superseded for such period not exceeding six months as may be specified in the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more

persons than one are appointed may appoint one of such persons to be the chairman and another of such persons to be the vice-chairman.

* * * * *

(*2*) On the publication of a notification in the Official Gazette under sub-section (*1*), the following consequences shall ensue, namely:—

(*a*) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(*b*) the person or persons appointed under sub-section (*1*) may exercise and perform all the powers and duties of the governing body which has been superseded;

(*c*) all such property of the recognised association as the person or persons appointed under sub-section (*1*) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons.

(*3*) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (*1*), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Central Government may, from time to time, by like notification vary such period.

(*4*) On the determination of the period of office of any person or persons appointed under this section the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (*1*) shall continue to exercise and perform their powers and duties.

(*5*) On the reconstitution of a governing body under sub-section (*4*), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (*1*) shall vest or revest, as the case may be, in the governing body so reconstituted.

14. Power to suspend business of recognised associations.—If in the interest of the trade or in the public interest the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, direct a recognised association to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and may in consultation with the Commission, by like notification extend the said period from time to time.

CHAPTER IV

Forward Contracts and option in Goods

15. Forward contracts in notified goods illegal or void in certain circumstances.—(*1*) The Central Government may, by notification in the Official Gazette, declare this section to apply to such goods or class of goods and in such areas as may be specified in the notification, and thereupon, subject to the provisions contained in section 18, every forward contract for the sale or purchase of any goods specified in the notification

which is entered into in the area specified therein otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) Any forward contract in goods entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—

(i) as respects the rights of any member of the recognised association who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention,

and notwithstanding anything contained in section 211 or section 222 of the Indian Contract Act, 1872 (IX of 1872), no claim of any description in respect of such contract by any member of the recognised association or by any other person who has knowingly participated in the transaction entailing such contravention shall be entertained in any civil court.

(3) Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

(4) No member of a recognised association shall, in respect of any goods specified in the notification under sub-section (1), enter into any contract on his own account with any person other than a member of the recognised association, unless he has secured the * * * consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the goods, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that no such *consent or authority of such person shall be necessary for closing out in accordance with the bye-laws any outstanding contract entered into by such member on his own account with such person if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, as the case may be, on his own account.

16. Consequences of notification under section 15.—Where a notification has been issued under section 15, then notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(a) every forward contract for the sale or purchase of any goods specified in the notification, entered into before the date of the notification and remaining to be performed after the said date and which

is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts;

(*b*) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (*a*), and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contracts in certain cases.—(*1*) The Central Government may, by notification in the Official Gazette, declare that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of any goods or class of goods specified in the notification and to which the provisions of section 15 have not been made applicable, except to the extent and in the manner, if any, as may be specified in the notification.

(*2*) All forward contracts in contravention of the provisions of sub-section (*1*) entered into after the date of publication of the notification thereunder shall be illegal.

(*3*) Where a notification has been issued under sub-section (*1*), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts for the sale or purchase of any goods specified in the notification entered into before the date of the notification and remaining to be performed after the said date as they apply to all forward contracts for the sale or purchase of any goods specified in the notification under section 15.

18. Chapters III and IV to apply to non-transferable specific delivery contracts only in certain cases.—(*1*) Where a notification under section 15 has been issued in respect of any goods or class of goods, the Central Government shall, by a like notification, define the area in which a recognised association may regulate and control non-transferable specific delivery contracts in respect of such goods or class of goods and the provisions of this Chapter and of Chapter III shall apply to non-transferable specific delivery contracts only in such areas and only in respect of such goods or class of goods.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the Central Government is of opinion that in the interests of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and of Chapter III do not apply, it may, by notification in the Official Gazette, declare that all or any of the provisions of the said Chapters shall apply to non-transferable specific delivery contracts in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.

19. Prohibition of options in goods.—(*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, all options in goods entered into after the date on which this section comes into force shall be illegal.

(*2*) Any option in goods which has been entered into before the date on which this section comes into force and which remains to be performed, whether wholly or in part, after the said date shall to that extent become void.

CHAPTER V

PENALTIES AND PROCEDURE

20. Penalty for contravention of certain provisions of Chapter IV.—(*1*) Any person who enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (*1*) of section 15, section 17 or section 19 shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Any person who enters into any forward contract in contravention of the provisions contained in sub-section (*3*) of section 15 shall on conviction be punishable with fine.

21. Penalty for owning or keeping place used for entering into forward contracts in goods.—Any person who—

(*a*) owns or keeps a place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or

(*b*) without the permission of the Central Government, organises, or assists in organising, or becomes a member of, any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

(*c*) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or

(*d*) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or

(*e*) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association, canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for any business connected with forward contracts in contravention of any of the provisions of this Act, or

(*f*) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing any forward contracts in contravention of any of the provisions of this Act,

shall, on conviction, be punishable with imprisonment which may extend to two years, or with fine, or with both.

22. Offences by companies.—(*1*) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

23. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any offence punishable under sub-section (*1*) of section 20 or section 21 shall be deemed to be a cognizable offence within the meaning of that Code.

24. Jurisdiction to try offences under this Act.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.

CHAPTER VI

MISCELLANEOUS

25. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may in such circumstances and subject to such conditions, if any, as may be specified, be exercised by such officer or authority, including any State Government or officers or authorities thereof as may be specified in the direction.

26. Power to exempt.—The Central Government may, by notification in the Official Gazette, exempt, subject to such conditions and in such circumstances and in such areas as may be specified in the notification, any contract or class of contracts from the operation of all or any of the provisions of this Act

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27. Powers to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms and conditions of service of members of the Commission;

(b) the manner in which applications for recognition may be made under section 5 and the levy of a fee in respect thereof;

(c) the manner in which any inquiry for the purpose of recognising any association may be made and the form in which recognition shall be granted;

(d) the particulars to be contained in the annual reports of recognised associations;

(e) the manner in which the bye-laws to be made, amended or revised under this Act shall, before being so made, amended or revised, be published for criticism;

(f) any other matter which is to be or may be prescribed.

PARLIAMENT OF INDIA

Report of the Select Committee on the Bill to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith.

(*As amended by the Select Committee.*)

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